

106TH CONGRESS  
1ST SESSION

# H. R. 2741

To adjust the immigration status of certain Colombian and Peruvian nationals  
who are in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. DIAZ-BALART (for himself, Ms. ROS-LEHTINEN, Mr. SMITH of New Jersey, Mr. GILMAN, Mr. DAVIS of Virginia, Mr. MENENDEZ, Mr. WATTS of Oklahoma, Mr. MCCOLLUM, and Mr. BONILLA) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To adjust the immigration status of certain Colombian and  
Peruvian nationals who are in the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Andean Adjustment  
5       Act of 1999”.

6       **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN COLOMBIAN**  
7       **AND PERUVIAN NATIONALS.**

8       (a) ADJUSTMENT OF STATUS.—

1           (1) IN GENERAL.—Notwithstanding section  
2       245(c) of the Immigration and Nationality Act, the  
3       status of any alien described in subsection (b) shall  
4       be adjusted by the Attorney General to that of an  
5       alien lawfully admitted for permanent residence, if  
6       the alien—

7           (A) applies for such adjustment before  
8       April 1, 2003; and

9           (B) is otherwise eligible to receive an im-  
10      migrant visa and is otherwise admissible to the  
11      United States for permanent residence, except  
12      in determining such admissibility the grounds  
13      for inadmissibility specified in paragraphs (4),  
14      (5), (6)(A), and (7)(A) of section 212(a) of the  
15      Immigration and Nationality Act shall not  
16      apply.

17       (2) RELATIONSHIP OF APPLICATION TO CER-  
18      TAIN ORDERS.—An alien present in the United  
19      States who has been ordered excluded, deported, re-  
20      moved, or ordered to depart voluntarily, from the  
21      United States under any provision of the Immigra-  
22      tion and Nationality Act may, notwithstanding such  
23      order, apply for adjustment of status under para-  
24      graph (1). Such an alien may not be required, as a  
25      condition on submitting or granting such applica-

1       tion, to file a motion to reopen, reconsider, or vacate  
2       such order. If the Attorney General grants the appli-  
3       cation, the Attorney General shall cancel the order.  
4       If the Attorney General renders a final administra-  
5       tive decision to deny the application, the order shall  
6       be effective and enforceable to the same extent as if  
7       the application had not been made.

8       (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
9       TUS.—The benefits provided by subsection (a) shall apply  
10      to any alien who is a national of Colombia or Peru—

11           (1) who was physically present in the United  
12      States on December 1, 1995; and

13           (2) has been physically present in the United  
14      States for at least 1 year and is physically present  
15      in the United States on the date the application for  
16      adjustment of status under this Act is filed, except  
17      an alien shall not be considered to have failed to  
18      maintain continuous physical presence by reason of  
19      an absence, or absences, from the United States for  
20      any periods in the aggregate not exceeding 180  
21      days.

22      (c) STAY OF REMOVAL.—

23           (1) IN GENERAL.—The Attorney General shall  
24      provide by regulation for an alien subject to a final  
25      order of deportation, removal, or exclusion to seek a

1 stay of such order based on the filing of an applica-  
2 tion under subsection (a).

3 (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
4 standing any provision of the Immigration and Na-  
5 tionality Act, the Attorney General shall not order  
6 any alien to be removed from the United States, if  
7 the alien is in exclusion, deportation, or removal pro-  
8 ceedings under any provision of such Act and raises  
9 as a defense to such an order the eligibility of the  
10 alien to apply for adjustment of status under sub-  
11 section (a), except where the Attorney General has  
12 rendered a final administrative determination to  
13 deny the application.

14 (3) WORK AUTHORIZATION.—The Attorney  
15 General may authorize an alien who has applied for  
16 adjustment of status under subsection (a) to engage  
17 in employment in the United States during the  
18 pendency of such application and may provide the  
19 alien with an “employment authorized” endorsement  
20 or other appropriate document signifying authoriza-  
21 tion of employment, except that if such application  
22 is pending for a period exceeding 180 days, and has  
23 not been denied, the Attorney General shall author-  
24 ize such employment.

1 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND  
2 CHILDREN.—

3 (1) IN GENERAL.—Notwithstanding section  
4 245(c) of the Immigration and Nationality Act, the  
5 status of an alien shall be adjusted by the Attorney  
6 General to that of an alien lawfully admitted for per-  
7 manent residence, if—

8 (A) the alien is the spouse, child, or un-  
9 married son or daughter, of an alien whose sta-  
10 tus is adjusted to that of an alien lawfully ad-  
11 mitted for permanent residence under sub-  
12 section (a), except that in the case of such an  
13 unmarried son or daughter, the son or daughter  
14 shall be required to establish that they have  
15 been physically present in the United States for  
16 at least 1 year;

17 (B) the alien applies for such adjustment  
18 and is physically present in the United States  
19 on the date the application is filed; and

20 (C) the alien is otherwise eligible to receive  
21 an immigrant visa and is otherwise admissible  
22 to the United States for permanent residence,  
23 except in determining such admissibility the  
24 grounds for exclusion specified in paragraphs  
25 (4), (5), (6)(A), and (7)(A) of section 212(a) of

1           the Immigration and Nationality Act shall not  
2           apply.

3           (2) PROOF OF CONTINUOUS PRESENCE.—For  
4           purposes of establishing the period of continuous  
5           physical presence referred to in paragraph (1)(B),  
6           an alien shall not be considered to have failed to  
7           maintain continuous physical presence by reason of  
8           an absence, or absences, from the United States for  
9           any periods in the aggregate not exceeding 180  
10          days.

11          (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—  
12          The Attorney General shall provide to applicants for ad-  
13          justment of status under subsection (a) the same right to,  
14          and procedures for, administrative review as are provided  
15          to—

16                (1) applicants for adjustment of status under  
17                section 245 of the Immigration and Nationality Act;  
18                or

19                (2) aliens subject to removal proceedings under  
20                section 240 of such Act.

21          (f) LIMITATION ON JUDICIAL REVIEW.—A deter-  
22          mination by the Attorney General as to whether the status  
23          of any alien should be adjusted under this Act is final and  
24          shall not be subject to review by any court.

1 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

2 When an alien is granted the status of having been law-  
3 fully admitted for permanent residence pursuant to this  
4 Act, the Secretary of State shall not be required to reduce  
5 the number of immigrant visas authorized to be issued  
6 under any provision of the Immigration and Nationality  
7 Act.

8 (h) APPLICATION OF IMMIGRATION AND NATION-  
9 ALITY ACT PROVISIONS.—Except as otherwise specifically

10 provided in this section, the definitions contained in the  
11 Immigration and Nationality Act shall apply in the admin-  
12 istration of this Act. Nothing contained in this Act shall  
13 be held to repeal, amend, alter, modify, effect, or restrict  
14 the powers, duties, functions, or authority of the Attorney  
15 General in the administration and enforcement of such  
16 Act or any other law relating to immigration, nationality,  
17 or naturalization. The fact that an alien may be eligible  
18 to be granted the status of having been lawfully admitted  
19 for permanent residence under this section shall not pre-  
20 clude the alien from seeking such status under any other  
21 provision of law for which the alien may be eligible.

